



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket Nos. FDA-2020-D-1136 and FDA-2020-D-1138]

#### Guidance Documents Related to Coronavirus Disease 2019; Availability

**AGENCY:** Food and Drug Administration, Health and Human Services (HHS).

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of FDA guidance documents related to the Coronavirus Disease 2019 (COVID-19) public health emergency (PHE). This notice of availability (NOA) is pursuant to the process that FDA announced, in the *Federal Register* of March 25, 2020, for making available to the public COVID-19-related guidances. The guidances identified in this notice address issues related to the COVID-19 PHE and have been issued in accordance with the process announced in the March 25, 2020, notice. The guidances have been implemented without prior comment, but they remain subject to comment in accordance with the Agency's good guidance practices. FDA is also announcing the withdrawal of two FDA guidance documents related to the COVID-19 PHE.

**DATES:** The announcement of the guidances is published in the *Federal Register* on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** You may submit either electronic or written comments on Agency guidances at any time as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment

does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

*Instructions:* All submissions received must include the name of the guidance document that the comments address and the docket number for the guidance (see table 1). Received comments will be placed in the docket(s) and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT

CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at:

<https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see § 10.115(g)(5) (21 CFR 10.115(g)(5))).

Submit written requests for single copies of these guidances to the address noted in table 1. Send two self-addressed adhesive labels to assist that office in processing your requests. See the SUPPLEMENTARY INFORMATION section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Kimberly Thomas, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6220, Silver Spring, MD 20993-0002, 301-796-2357; or Erica Takai, Center for Devices

and Radiological Health (CDRH), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5456, Silver Spring, MD 20993-0002, 301-796-6353.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On January 31, 2020, as a result of confirmed cases of COVID-19, and after consultation with public health officials as necessary, the Secretary of Health and Human Services (HHS), pursuant to the authority under section 319 of the Public Health Service Act (42 U.S.C. 247d), determined that a PHE exists and has existed since January 27, 2020, nationwide.<sup>1</sup> On March 13, 2020, there was a Presidential declaration that the COVID-19 outbreak in the United States constitutes a national emergency, beginning March 1, 2020.<sup>2</sup>

In the *Federal Register* of March 25, 2020 (85 FR 16949) (the March 25, 2020, notice) (available at <https://www.govinfo.gov/content/pkg/FR-2020-03-25/pdf/2020-06222.pdf>), FDA announced procedures for making available FDA guidances related to the COVID-19 PHE. These procedures, which operate within FDA's established good guidance practices regulations, are intended to allow FDA to rapidly disseminate Agency recommendations and policies related to COVID-19 to industry, FDA staff, and other stakeholders. The March 25, 2020, notice stated that due to the need to act quickly and efficiently to respond to the COVID-19 PHE, FDA believes that prior public participation will not be feasible or appropriate before FDA implements COVID-19-related guidances. Therefore, FDA will issue COVID-19-related guidances for immediate implementation without prior public comment (see section 701(h)(1)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)(1)(C)) and § 10.115(g)(2)). The

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<sup>1</sup> Secretary of Health and Human Services, "Determination that a Public Health Emergency Exists Nationwide as the Result of the 2019 Novel Coronavirus" (originally issued on January 31, 2020, and subsequently renewed), available at: <https://www.phe.gov/emergency/news/healthactions/phe/Pages/default.aspx>.

<sup>2</sup> Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak (March 13, 2020), available at: <https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>. On February 24, 2021, there was a Presidential Declaration continuing the national emergency concerning the COVID-19 pandemic beyond March 1, 2021. See Continuation of the National Emergency Concerning the Coronavirus Disease 2019 (COVID-19) Pandemic (February 24, 2021), available at <https://www.federalregister.gov/documents/2021/02/26/2021-04173/continuation-of-the-national-emergency-concerning-the-coronavirus-disease-2019-covid-19-pandemic>.

guidances are available on FDA’s web pages entitled “COVID-19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders” (available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders>) and “Search for FDA Guidance Documents” (available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>).

The March 25, 2020, notice further stated that, in general, rather than publishing a separate NOA for each COVID-19-related guidance, FDA intends to publish periodically a consolidated NOA announcing the availability of certain COVID-19-related guidances that FDA issued during the relevant period, as included in table 1. This notice announces COVID-19-related guidances that are posted on FDA’s website.

## II. Availability of COVID-19-Related Guidance Documents

Pursuant to the process described in the March 25, 2020, notice, FDA is announcing the availability of the following COVID-19-related guidances:

Table 1.--Guidances Related to the COVID-19 Public Health Emergency

Docket No.	Center	Title of Guidance	Contact Information to Request Single Copies
FDA-2020-D-1136	CDER	Development of Abbreviated New Drug Applications During the COVID-19 Pandemic-- Questions and Answers; Guidance for Industry (Updated September 2021)	<a href="mailto:druginfo@fda.hhs.gov">druginfo@fda.hhs.gov</a> . Please include the docket number FDA-2020-D-1136 and complete title of the guidance in the request.
FDA-2020-D-1138	CDRH	Enforcement Policy for Face Masks, Barrier Face Coverings, Face Shields, Surgical Masks, and Respirators During the Coronavirus Disease (COVID-19) Public Health Emergency (Updated September 2021)	<a href="mailto:CDRH-Guidance@fda.hhs.gov">CDRH-Guidance@fda.hhs.gov</a> . Please include the document number 20018 and complete title of the guidance in the request.

Although these guidances have been implemented immediately without prior comment, FDA will consider all comments received and revise the guidances as appropriate (see § 10.115(g)(3)).

These guidances are being issued consistent with FDA’s good guidance practices regulation (§ 10.115). The guidances represent the current thinking of FDA. They do not

establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

### III. Paperwork Reduction Act of 1995

#### *A. CDER Guidance*

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information (listed in table 2). Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidances have been approved by OMB as listed in the following table:

Table 2.--CDER Guidances and Collections

COVID-19 Guidance Title	CFR cite Referenced in COVID-19 Guidance	Another Guidance Title referenced in COVID-19 Guidance	OMB Control No(s).
Development of Abbreviated New Drug Applications During the COVID-19 Pandemic-- Questions and Answers; Guidance for Industry (Updated September 2021)	21 CFR 211.170 21 CFR 314.3 21 CFR 314.50 21 CFR 314.94 21 CFR 314.101 21 CFR 314.105 21 CFR 314.107 21 CFR 320.25 21 CFR 320.31 21 CFR 320.38 21 CFR 320.63	(1) ANDAs: Stability Testing of Drug Substances and Products, Questions and Answers (2) Referencing Approved Drug Products in ANDA Submissions (3) Protecting Participants in Bioequivalence Studies for Abbreviated New Drug Applications During the COVID-19 Public Health Emergency (4) Safety Reporting Requirements for INDs and BA/BE Studies (5) Controlled Correspondence Related to Generic Drug Development (6) Formal Meetings Between FDA and ANDA Applicants of Complex Products Under GDUFA (7) Conduct of Clinical Trials of Medical Products during the COVID-19 Pandemic (8) ANDAs: Stability Testing of Drug Substances and Products, Questions and Answers	0910-0001 0910-0014 0910-0119 0910-0139 0910-0338 0910-0581 0910-0672 0910-0733 0910-0797

		(9) Manufacturing, Supply Chain, and Drug and Biological Product Inspections During COVID-19 Public Health Emergency Questions and Answers	
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### *B. CDRH Guidance*

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information (listed in table 3). Therefore, clearance by OMB under the PRA (44 U.S.C. 3501-3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations and guidance have been approved by OMB as listed in the following table:

Table 3.--CDRH Guidances and Collections

COVID-19 Guidance Title	CFR cite Referenced in COVID-19 Guidance	Another Guidance Title referenced in COVID-19 Guidance	OMB Control No(s).
Enforcement Policy for Face Masks and Respirators During the Coronavirus Disease (COVID-19) Public Health Emergency (Revised); Guidance for Industry and Food and Drug Administration Staff	800, 801, and 809		0910-0485
	803		0910-0437
	806		0910-0359
	807, subpart E		0910-0120
	807, subparts A through D		0910-0625
	820		0910-0073
	830 and 801.20		0910-0720
		Emergency Use Authorization of Medical Products and Related Authorities; Guidance for Industry and Other Stakeholders	0910-0595

### IV. Withdrawn COVID-19-Related Guidance Documents

On June 30, 2021, FDA announced the revocation of the Emergency Use Authorizations (EUAs) for Decontamination and Bioburden Reduction Systems for Personal Protective Equipment. The full text of the revocations are available electronically at <https://www.regulations.gov> (Docket No. FDA-2021-N-0762) and <https://www.fda.gov/medical-devices/emergency-use-authorizations-medical-devices/historical-information-about-device->

emergency-use-authorizations. With the revocation of these EUAs, on June 30, 2021, FDA also withdrew two related decontamination and bioburden reduction guidance documents (listed in table 4), as the documents no longer represent the Agency’s current thinking.

Table 4.--Withdrawn Guidances Related to the COVID-19 Public Health Emergency

Docket No.	Center	Title of Withdrawn Guidance	Withdrawal Date
FDA-2020-D-1138	CDRH	Recommendations for Sponsors Requesting EUAs for Decontamination and Bioburden Reduction Systems for Face Masks and Respirators During the Coronavirus Disease 2019 (COVID-19) Public Health Emergency; Guidance for Industry and Food and Drug Administration Staff	June 30, 2021
FDA-2020-D-1138	CDRH	Enforcement Policy for Bioburden Reduction Systems Using Dry Heat to Support Single-User Reuse of Certain Filtering Facepiece Respirators During the Coronavirus Disease (2019) Public Health Emergency	June 30, 2021

These withdrawn guidance documents are presented on FDA’s website, for historical purposes only, at <https://www.fda.gov/medical-devices/guidance-documents-medical-devices-and-radiation-emitting-products/withdrawn-guidance>.

## V. Electronic Access

Persons with access to the internet may obtain COVID-19-related guidances at:

- FDA web page entitled “COVID-19-Related Guidance Documents for Industry, FDA Staff, and Other Stakeholders,” available at <https://www.fda.gov/emergency-preparedness-and-response/mcm-issues/covid-19-related-guidance-documents-industry-fda-staff-and-other-stakeholders>;
- FDA web page entitled “Search for FDA Guidance Documents” available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>; or
- <https://www.regulations.gov>.



Dated: September 30, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021-21798 Filed: 10/5/2021 8:45 am; Publication Date: 10/6/2021]